THE BOMBAY LABOUR WELFARE FUND ACT, 1953.

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BOMBAY ACT No. XL OF 1953.[1]

[THE BOMBAY LABOUR WELFARE FUND ACT, 1953.]

[*17th June 1953*]

An Act to provide for the constitution of a Fund for the financing of activities to promote welfare of labour in the State of Bombay and for conducting such activities.

WHEREAS it is expedient to constitute a Fund for the financing of activities to promote welfare of labour in the State of Bombay and for conducting such activities ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Labour Welfare Fund Act, 1953.

(*2*) It extends to the State of Bombay.

(*3*) It shall come into force in such area and on such date as the State Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

2. In this Act, unless the context otherwise requires—

(*1*) "Board" means the Bombay Labour Welfare Board constituted under section 4 ;

(*2*) "Employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in an establishment ;

(*3*) "Employer" means any person who employs either directly or through another person either on behalf of himself or any other person, one or more employees in an establishment and includes—

LXIII of 1948.

(*i*) in a factory, any person named under section 7 (*i*) (*f*) of the Factories Act, 1948, as the manager ;

(*ii*) in any establishment, any person responsible to the owner for the supervision and control of the employees or for the payment of wages ;

(*4*) "Establishment" means—

(*i*) a factory ;

(*ii*) a tramway or motor omnibus service ; and

XXI of 1860. Bom. XXIX of 1950.

(*iii*) any establishment including a society registered under the Societies Registration Act, 1860, and a charitable or other trust, whether registered under the Bombay Public Trusts Act, 1950, or not, which carries on any business or trade or any work in connection with or ancillary thereto and which employs or on any working day during the preceding twelve months employed more than fifty persons,

but does not include an establishment of the Central or any State Government ;

LXIII of 1948.

(*5*) "Factory" means a factory as defined in section 2 (*m*) of the Factories Act, 1948 ;

(*6*) "Fund" means the Bombay Labour Welfare Fund constituted under section 3 ;

(*7*) "Independent member" means a member of the Board who is not connected with the management of any establishment or who is not an employee, and includes an officer of Government nominated as a member ;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1953, Part V, pages 327-328.

(*8*) "Inspector" means an Inspector appointed under section 12;

(*9*) "Prescribed" means prescribed by rules made under this Act;

(*10*) "Unpaid accumulations" means all payments due to the employees but not made to them within a period of three years from the date on which they became due whether before or after the commencement of this Act including the wages, and gratuity legally payable;

(*11*) "Wages" means all remuneration capable of being expressed in terms of money which would, if the terms of the contract of employment, express or implied were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, but does not include:—

(*a*) the value of—

(*i*) any house accommodation, supply of light, water, medical attendance; or

(*ii*) any other amenity or any service excluded by general or special order of the State Government;

(*b*) any contribution paid by the employer to any pension fund or provident fund or under any scheme of social insurance;

(*c*) any travelling allowance or the value of any travelling concession;

(*d*) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or

(*e*) any gratuity payable on discharge;

(*12*) "Welfare Commissioner" means the Welfare Commissioner appointed under section 11.

Wolfare Fund.

3. (*1*) There shall be constituted a fund called the Bombay Labour Welfare Fund and, notwithstanding anything contained in any other law for the time being in force, the sums specified in sub-section (*2*) shall be paid into the Fund.

(*2*) The Fund shall consist of—

(*a*) all fines realised from the employees;

(*b*) all unpaid accumulations;

(*c*) any voluntary donations;

(*d*) any fund transferred under sub-section (*5*) of section 7; and

(*e*) any sum borrowed under section 8.

(*3*) The sums specified in sub-section (*2*) shall be collected by such agencies and in such manner and the accounts of the Fund shall be maintained and audited in such manner as may be prescribed.

Board.

4. (*1*) The State Government shall, by notification in the *Official Gazette*, constitute the Board for the purpose of administering the Fund and to carry on such other functions assigned to the Board by or under this Act. The Board shall consist of the following members, namely:—

(*a*) such number as may be prescribed of representatives of employers and employees to be nominated by the State Government:

Provided that both employers and employees shall have equal representation on the Board:

(*b*) such number of independent members as may be prescribed, nominated by the State Government; and

(*c*) such number of independent members as may be prescribed, nominated by the State Government to represent women.

(*2*) The members of the Board shall elect one of its independent members as the Chairman of the Board.

(*3*) Save as otherwise expressly provided by this Act, the term of office of the members of the Board shall be three years commencing on the date on which their names are notified in the *Official Gazette*.

(*4*) The allowances, if any, payable to the members of the Board and the conditions of appointment of the representatives of the employers and employees shall be such as may be prescribed.

(*5*) The Board shall be a body corporate by the name of the Bombay Labour Welfare Board, having perpetual succession and a common seal, with power to acquire property both moveable and immoveable, and shall by the said name sue and be sued.

Disqualifications and removal.

5. (*1*) No person shall be chosen as, or continue to be a member of, the Board who—

(*a*) is a salaried official of the Board; or

(*b*) is or at any time has been adjudged insolvent or has suspended payment of his debts or has compounded with his creditors; or

(*c*) is found to be a lunatic or becomes of unsound mind; or

(*d*) is or has been convicted of any offence involving moral turpitude.

(*2*) The State Government may remove from office any member who—

(*a*) is or has become subject to any of the disqualifications mentioned in sub-section (*1*), or

(*b*) is absent without leave of the Board for more than three consecutive meetings of the Board.

Resignation of office by member and filling up of casual vacancies.

6. (*1*) A member may resign his office by giving notice thereof in writing to the State Government, and on such resignation being accepted, shall be deemed to have vacated his office.

(*2*) A casual vacancy in the office of a member shall be filled up, as soon as conveniently may be, by the authority concerned and a member so nominated shall hold office for the unexpired portion of the term of the office of his predecessor.

(*3*) No act or proceedings of the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in constitution of the Board.

Vesting and application of Fund.

7. (*1*) The fund shall vest in and be held and applied by the Board as Trustees subject to the provisions and for the purposes of this Act. The moneys therein shall be utilized by the Board to defray the cost of carrying out measures which may be specified by the State Government from time to time to promote the welfare of labour and of their dependents.

(*2*) Without prejudice to the generality of sub-section (*1*) the moneys in the Fund may be utilized by the Board to defray expenditure on the following :—

(*a*) community and social education centres including reading rooms and libraries ;

(*b*) community necessities ;

(*c*) games and sports ;

(*d*) excursions, tours and holiday homes ;

(*e*) entertainment and other forms of recreations ;

(*f*) home industries and subsidiary occupations for women and unemployed persons ;

(*g*) corporate activities of a social nature ;

(*h*) cost of administering the Act including the salaries and allowances of the staff appointed for the purposes of the Act ; and

(*i*) such other objects as would in the opinion of the State Government improve the standard of living and ameliorate the social conditions of labour :

Provided that the Fund shall not be utilized in financing any measure which the employer is required under any law for the time being in force to carry out ;

Provided further that unpaid accumulations and fines shall be paid to the Board and be expended by it under this Act notwithstanding anything contained in the Payment of Wages Act, 1936, or any other law for the time being in force. IV of 1936.

(*3*) The Board may, with the approval of the State Government, make a grant of the Fund to any employer, any local authority or any other body in aid of any activity for the welfare of labour approved by the State Government.

(*4*) If any question arises whether any particular expenditure is or is not debitable to the Fund, the matter shall be referred to the State Government and the decision given by the State Government shall be final.

(*5*) It shall be lawful for the Board to continue any activity financed from the labour welfare fund of any establishment, if the said fund is duly transferred to the Board.

Power of Board to borrow.

8. The Board may from time to time with the previous sanction of the State Government and subject to the provisions of this Act and to such conditions as may be specified in this behalf borrow any sum required for the purpose of this Act.

Investment of Fund.

9. Where the Fund or any portion thereof cannot be applied at any early date for fulfilling the objects of the Act, the Board shall invest the same in any of the securities specified in clauses (*a*) to (*d*) and (*f*) of section 20 of the Indian Trusts Act, 1882. II of 1882.

Directions by State Government to Board.

10. The State Government may give the Board such directions as in its opinion are necessary or expedient in connection with expenditure from the Fund or for carrying out the other purposes of the Act. It shall be the duty of the Board to comply with such directions.

Appointment and powers of Welfare Commissioner.

11. (*1*) (*i*) The Welfare Commissioner shall be appointed by the Board with the previous approval of the State Government;

(*ii*) the Welfare Commissioner shall be the principal executive officer of the Board;

(*iii*) it shall be the duty of the Welfare Commissioner to ensure that the provisions of this Act and the rules made thereunder are duly carried out and for this purpose he shall have the power to issue such orders not inconsistent with the provisions of the Act and rules made thereunder as he deems fit including any order implementing the decisions taken by the Board under the Act or rules made thereunder.

(*2*) Notwithstanding anything contained in sub-section (*1*) the first Welfare Commissioner shall be appointed by the State Government as soon as practicable after the passing of this Act for a period not exceeding five years and on such conditions as the State Government thinks fit.

Appointment of Inspectors.

12. (*1*) The State Government may appoint Inspectors to inspect records in connection with the sums payable into the Fund.

(*2*) Any Inspector may—

(*a*) with such assistance, if any, as he thinks fit, enter at any reasonable time any premises for carrying out the purposes of this Act;

(*b*) exercise such other powers as may be prescribed.

Absorption of the existing staff under Commissioner of Labour.

13. (*1*) The Board shall take over and employ such of the existing staff under the control of the Commissioner of Labour, Bombay, as the State Government may direct and every person so taken over and employed shall be subject to the provisions of this Act and the rules made thereunder:

Provided that—

(*a*) during the period of such employment all matters relating to pay, leave, retirement, allowances, pensions, provident fund and other conditions of service of the said staff shall be regulated by the Bombay Civil Services Rules or such other rules as may from time to time be made by the State Government;

(*b*) every such member shall have a right of appeal to the State Government against any order of reduction, dismissal or removal from service, fine or any other punishment:

Provided further that person so taken over may elect within the prescribed period that he desires to be governed by the rules made under this Act in respect of conditions of service of the staff appointed by the Board under this Act and on his electing to do so the provisions of the first proviso shall cease to apply to him.

Appointment of clerical and other staff by Board.

14. The Board shall have power to appoint the necessary clerical and executive staff to carry out and supervise the activities financed from the Fund:

Provided that the expenses of the staff thus appointed and other administrative expenses shall not exceed a prescribed percentage of the annual income of the Fund.

Power of State Government to remove any person on staff of Board.

15. The State Government shall have the power to remove any person whom it may deem unsuitable, from the service of the Board and to make an appointment in respect of whom more than one-third of the members of the Board have not agreed.

Power of State Government or authorised officer to call for records, etc.

16. The State Government or any officer authorised by the State Government may call for the records of the Board, inspect the same and may supervise the working of the Board.

Mode of recovery of sums payable into Fund, etc.

17. Any sum payable into the Fund under this Act shall, without prejudice to any other mode of recovery, be recoverable on behalf of the Board as an arrear of land revenue.

Supersession of Board.

18. (*1*) If the State Government is satisfied that the Board has made default in performing any duties imposed on it by or under this Act or has abused its power, the State Government may by notification in the *Official Gazette* supersede and re-constitute the Board in the prescribed manner :

Provided that before issuing the notification under this sub-section, the State Government will give a reasonable opportunity to the Board to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Board.

(*2*) After the supersession of the Board and until it is reconstituted the powers, duties and functions of the Board under this Act shall be exercised or performed by the Board or by such officer or officers, as the State Government may appoint for this purpose.

Rules.

19. (*1*) The State Government may by notification in the *Official Gazette* and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely :—

(*a*) the agency for and the manner of collection of sums specified in sub-section (*3*) of section 3 ; and the period within which the same shall be paid to the credit of the Fund ;

(*b*) the manner in which the accounts of the Fund shall be maintained and audited under sub-section (*3*) of section 3 ;

(*c*) the procedure for making grants from the Fund under section 7 ;

(*d*) the procedure for defraying the expenditure incurred in administering the Fund ;

(*e*) the number of representatives of employers and employees, independent members and representatives of women on the Board, and the allowances, if any, payable to them, under section 4 ;

(*f*) the manner in which the Board shall conduct their business ;

(*g*) the duties and powers of the Inspectors and the conditions of service of the Welfare Commissioner and Inspectors and other staff appointed under this Act ;

(*h*) the percentage of the annual income of the Fund beyond which the Board may not spend on the staff and on other administrative measures ;

(*i*) the registers and records to be maintained under the Act ;

(*j*) the publication of the report of the activities financed from the Fund together with a statement of receipts and expenditures of the Fund and statement of accounts;

(*k*) any other matter which under this Act is or may be prescribed.

Members of Board, Welfare Commissioner Inspectors and all officers and servants of Board to be public servants.

20. The members of the Board, the Welfare Commissioner, Inspectors and all officers and servants of the Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Protection to persons acting in good faith.

21. No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Exemption.

22. The State Government may by notification in the *Official Gazette* exempt any class of establishment from all or any of the provisions of this Act subject to such conditions as may be specified in the notification.

Amendment of section 8 of Act IV of 1936.

23. In section 8 of the Payment of Wages Act, 1936, to sub-section (*8*) the following shall be added, before the Explanation, namely :—

IV of 1936.

"but in the case of any factory or establishment to which the Bombay Labour Welfare Fund Act, 1953, applies all such realisations shall be paid into the Fund constituted under the said Act."

Bom. XL of 1953.